



Zoning Administrator Hearing

Minutes

Mizner Conference Room
Mesa City Plaza Building, Suite 130
20 East Main Street
Mesa, Arizona, 85201

John S. Gendron
Hearing Officer

DATE July 31, 2007

TIME 1:30 P.M.

Staff Present

Jeff McVay
Jim Hash
Constance Bachman

Others Present

David Udall
Clark Richter
Sarah Freeman
John Hosmer
Daniel Filuk
Craig Freeman
Cathy Freeman
Myron Jones

CASES

Case No.: ZA07-075

Location: 3914 East Presidio Street

Subject: Requesting a Substantial Conformance Improvement Permit to allow expansion of an industrial building in the M-1-PAD zoning district. **This case was continued from the July 17, 2007 meeting.**

Decision: Approved with the following conditions.

1. *Compliance with the site and landscape plan submitted, except as modified by the conditions below.*
2. *Compliance with all requirements of the Administrative Design Review Approval (ADR06-047).*
3. *Compliance with all requirements of the Building Safety Division with regard to the issuance of building permits.*

Summary: Dan Filuk, architect, represented the request noting he had nothing to add to the case file and that one of the letter of notification was returned undeliverable. Mr. Gendron noted he knew the history of the site and potential neighborhood concerns. Mr. Filuk noted that The Commons Owners Association is waiting for an approval from the City before they make a decision on the case.

Mr. Gendron received comment on the proposal, the use of an indoor crane, and the areas of the site that do not comply with current Code requirements. Mr. Hash presented a staff report and recommendation, noting the recommended conditions of approval.

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Finding of Facts:

- A Substantial Conformance Improvement Permit (SCIP) allows the development of a 4,800 square foot addition to the existing warehouse for equipment maintenance and a 2,000 square foot storage building without bringing the entire site into compliance with current Code development standards. Deviations include a reduction in foundation base requirements in those areas that are not accessible by the general public and a reduction in perimeter landscape requirements.
- The areas that would not comply with current Code requirements are within the rear yard area of the complex, which is used for storage of the crushing equipment. A 10-foot CMU block wall along the west and north property lines and a 6-foot CMU block wall along the south and east screen this area from public view. The 10-foot wall was required through Z99-99 to address neighborhood concerns.
- The applicant will provide 23; 15-gallon Chilean Mesquite trees along the eastern border of the retention basin to further screen the buildings from the neighboring communities.
- The applicant has applied for Administrative Design Review approval (ADR06-047) for all architectural elements of the proposed building additions.

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Case No.: ZA07-080

Location: 3314 East Draper Circle

Subject: Requesting a variance to allow an addition to encroach into the required rear setback in the R1-15 zoning district.

Decision: Approved with the following conditions.
1. Compliance with the site plan submitted.
2. Compliance with all requirements of the Building Safety Division with regard to the issuance of building permits

Summary: John Hosmer, builder, represented the requested variance noting he had no additional information to add to the case record. In response to Mr. Gendron, Mr. Hosmer provided background on the existing condition, the request, and the reason for the addition. Mr. Hosmer noted other options were not available for the addition and that no opposition has been heard.
Mr. Gendron questioned staff about the justification for the variance, should the current property owner or disabled person leave. Staff noted that if approved the variance would run with the land.
Mr. Gendron noted the special circumstances require some modification to the standards, the relatively minor nature of the encroachment, and the architectural compatibility.

Finding of Fact:

- The variance allows for the addition of an enclosed sunroom to the master suite. The addition would allow viewing of the backyard and outdoors by the disabled resident of the property. The applicant, Mr. Kinnard, is limited in the use and enjoyment of the property due to a physical disability.
- A letter has been provided that describes Mr. Kinnard's disability and explains the limitations that have resulted in the requested variance. The addition of the sunroom onto the existing master bedroom would allow the owner to view the outdoors while maintaining a safe environment free of the danger that currently prohibit him from use of the outdoors.
- The existing construction complies with the setback requirements of the R1-15 zoning district. The proposed addition would continue as an extension of the covered porch and result in a rear setback of 17 feet.
- The Fair Housing Act makes it unlawful to refuse to make reasonable accommodations in land use and zoning policies and procedures where such accommodations may be necessary to afford persons or groups of persons with disabilities an equal opportunity to use and enjoy housing.
- Federal laws defines a person with a disability as "Any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such impairment; or is regarded as having such an impairment."
- A reasonable accommodation is a change in rules, policies, practices, or services so that a person with a disability will have an equal opportunity to use and enjoy a dwelling unit or common space. A reasonable modification is a structural modification that is made to allow persons with disabilities the full enjoyment of the housing and related facilities.

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- The requested variance would provide a reasonable accommodation and would afford the applicant the same use and benefit that would be enjoyed by a resident that has no disabilities.

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Case No.: ZA07-081

Location: 151 West Highridge Street

Subject: Requesting a variance to allow development of two single residence parcels without frontage on a public right-of-way in the R1-6 zoning district.

Decision: Approved with the following conditions:

1. *Compliance with all bulk requirements (height, setback, and lot coverage) of the R1-6 zoning district.*
2. *Further division of Parcels 136-19-004-H and 136-19-004-G shall not be allowed.*
3. *Each parcel shall maintain a minimum ten-foot (10') wide real property connection to the public right-of-way.*
4. *Compliance with all requirements of the Building Safety Division with regard to the issuance of building permits.*

Summary: Dave Udall, Clark Richter, and Craig Freeman represented the variance request, noting that the parcels have been in existence for some time when his grandparents owned it. The properties were bought from Mr. Freeman's aunt and uncle in 2006. Mr. Gendron confirmed with staff that the lots were annexed in 1960 at around the same time that the lots were created.

In response to Mr. Gendron, Mr. Freeman stated that easements were recorded giving SRP access to the buried canal and access easement for both lots. Staff provided Mr. Gendron a status on the legality of the lots and noted the comments received from Building Safety, Utilities, Solid Waste, and Engineering.

Sarah Freeman, spoke in favor of the request.

Mr. Gendron agreed with the applicant's request, noting the creation of the parcel prior to City's subdivision regulations. In addition to staff recommendations, Mr. Gendron further required a minimum 10 foot wide connection from the east parcel to the public right-of-way, consistent with statements from PPRT.

Finding of Fact:

- The requested variance would allow the construction of single residences on two parcels that do not have frontage on a public street. The applicant is requesting a variance to provide a 25-foot Public Utilities and Facilities Easement (P.U.F.E.) in lieu of the required public street frontage.
- Highridge Street improvements currently end just inside the west boundary of Parcel number 136-19-004-H. From that point, an unimproved driveway provides access that extends through the northeast corner of parcel 136-19-004-H and terminates just inside the northwestern boundary of parcel 136-19-004-G.
- The steep topography of the site creates unique conditions that prevent reasonable development of the site without a variance. Specifically, the design of a public street consistent with City standards and the amount of land required for such street is significantly affected by the topography of the site. The landlocked condition of these parcels is pre-existing and not imposed by the applicant.
- The owner will be required to improve and maintain the proposed P.U.F.E. that will provide access for emergency vehicles and utilities to the homes constructed on the parcels.

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- These parcels cannot be developed without the requested variance. Consequently, granting of this variance would not afford the owner with a special privilege inconsistent with the limitations of other properties in the vicinity. Additionally, without a variance the applicant would be denied use and benefit of the land, which has been zoned for residential use.
- A variance, however, does not grant relief from other applicable City Codes, such as building and fire. Issues relate to building and Fire Codes that will need to be resolved outside the variance process could include: 1) the location of the SRP easement for the Utah Canal may affect utility service, 2) the hammerhead turn around will not allow solid waste service, as a 42-foot radius cul-de-sac is required, and 3) residences without sprinkler systems are required to provide access for fire emergency vehicles within 150 feet, lay-of-hose hose, to all sides of the dwelling.

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There being no further business to come before the Zoning Administrator, the hearing adjourned at 2:07 p.m.

The cases for this hearing were recorded and are available upon request.

Respectfully submitted,

John S. Gendron
Hearing Officer

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